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February 11, 2015

File No.
33965.03

VIA ECF

Judge Jack B. Weinstein
United States District Court Judge
United States District Court, EDNY
225 Cadman Plaza East
Brooklyn New York 11201

Re: Campbell v. Ganguly, 14-CV-00188-JBW-RML

Dear Judge Weinstein:

We represent Defendant Ishita Ganguly in the above-referenced action. Pursuant to an Order entered December 17, 2014, a status conference has been scheduled in this matter for February 17, 2015 at the United States District Court, Eastern District of New York, which requires that the parties appear with their attorneys. As your Honor may be aware, there is a criminal case currently pending against the Defendant that arises from the same facts and circumstances as this civil case. The criminal case was first filed under *United States of America v. Ishita Ganguly*, U.S.D.C. Dkt. No. 13 mg 2899 (S.D.N.Y. December 17, 2013), and is nearly complete, with sentencing scheduled for February 17, 2015. In light of the foregoing, we respectfully request that the status conference scheduled for February 17, 2015 be adjourned until completion of the sentencing phase in the related criminal proceedings. Pursuant to Local Rules 37.3 and 6.4, we have conferred with Plaintiffs' counsel regarding an adjournment of the conference, and they have consented to same.

Ms. Ganguly cannot appear at the status conference because her criminal sentencing is scheduled for the same date. In addition, she will be significantly prejudiced by the continuation of this civil proceeding while she must continue to simultaneously defend the criminal case. An adjournment of a conference and/or discovery in a civil action during a concurrent simultaneous criminal proceeding "can protect a civil defendant from facing the difficult choice between being prejudiced in the civil litigation, if the defendant asserts his or her Fifth Amendment privilege, or from being prejudiced in the criminal litigation if he or she waives that privilege in the civil litigation." *Louis Vuitton Malletier S.A. v. LY USA, Inc.*, 676 F.3d 83, 97 (2d Cir. 2012). There is

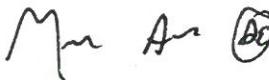
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total overlap between these two cases; and “self-incrimination is more likely if there is a significant overlap.” *Transworld Mech.*, 886 F. Supp. at 1139. See also *Volmar Distrib. v. N.Y. Post Co.*, 152 F.R.D. 36, 39 (S.D.N.Y. 1993) (“The most important factor at the threshold is the degree to which the civil issues overlap with the criminal issues.”).

The criminal case has nearly concluded, with only the sentencing phase remaining, and an adjournment will advance the public interest while simultaneously accomplishing some of the discovery that would occur in this case. The outcome of that case, including the forfeiture and restitution aspects of the sentencing proceeding, may render this case moot, or significantly speed up discovery and adjudication of this case. Given that sentencing is set to occur on February 17, 2015, Plaintiffs have consented to a brief adjournment of the upcoming status conference. In the event the criminal case does not fully adjudicate this dispute, this civil action will still be an available avenue for Plaintiffs, and one that would proceed expeditiously in light of the work that will already have been completed in the criminal case.

We respectfully request that this Court grant Defendant’s request for an adjournment of the upcoming February 17, 2015 status conference. We wish to thank the Court in advance for its attention to this matter. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,


Mark K. Anesh of
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MKA/JAE

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